



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
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ATLANTA, GEORGIA 30303-8960

April 5, 2013

Leah Oberlin  
Chief, Palm Beach Gardens Regulatory Office  
Jacksonville District, U.S. Army Corps of Engineers  
4400 PGA Boulevard, Suite 500  
Palm Beach Gardens, FL 33410

SUBJECT: Draft Environmental Impact Statement (DEIS) for A1 Shallow Flow Equalization Basin (A1 FEB)

Dear Ms. Oberlin:

The U.S. Environmental Protection Agency (EPA) has reviewed the referenced Draft Environmental Impact Statement (EIS) in accordance with its responsibilities under Section 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA). The applicant, the South Florida Water Management District (SFWMD), proposes construction of the A1 FEB reservoir to improve inflow delivery rates to STA 2 and STA 3/4 by attenuating peak water flows and temporarily storing water runoff primarily from the central Everglades Agricultural Area (EAA). The project purpose as stated in the DEIS by the Jacksonville District, U.S. Army Corps of Engineers (USACE) is to achieve the Water Quality Based Effluent Limit (WQBEL) for phosphorus at the STA 2 and STA 3/4 discharge points in the Central Flowpath of the Everglades Protection Area. According to the SFWMD the A1 FEB will assist in maintaining minimum water levels and reducing the frequency of dryout conditions within STA 2 and STA 3/4. This should increase the phosphorus treatment performance of these STAs in order to achieve the WQBEL.

Alternatives considered were Alternative 1: No Action, Alternative 2: Shallow Flow Equalization Basin (Applicant's Proposed Action), Alternative 3: Deep Flow Equalization Basin and Alternative 4: Stormwater Treatment Area. The preferred alternative and other alternatives considered are located within western Palm Beach County Florida. The preferred alternative is the construction of A1 FEB (Alternative 2), which is a shallow above-ground impoundment for the temporary storage of stormwater runoff, with a capacity of approximately 60,000 acre-feet at an approximate maximum operating depth of 4 feet. Project features include: gated inflow structures, inflow conveyance channels and interior levees, outflow collection and conveyance canal and gated outflow structures. As a result of the project construction, approximately 536.8 acres of waters of the United States (US), including wetlands, would be impacted by the placement of fill and approximately 10,500 acres of waters of the US would be inundated (up to four feet of water depth). As proposed, the project will manage basin runoff in the Central Flowpath in a more advantageous manner by reducing the impacts of storm-driven events to STA 2 and STA 3/4 and will improve operations during periods of drought and low water flows. Attenuating and managing excess water flows in the Central Flowpath will enhance operations

and improve phosphorus treatment performance in the STA 2 and STA 3/4 complex to insure that these STA discharges meet the WQBEL. Discharges from these STAs flow into WCA 2A and WCA 3A, part of the Everglades Protection Area (EPA) marsh where the 10 ppb long term geometric mean numeric phosphorus criterion applies. EPA has made comments on the SFWMD's Permit Application (No. SAJ-2005-0053) in a separate letter dated April 4, 2013.

As a Cooperating Agency, the EPA worked collaboratively with the USACE and the SFWMD staff to develop the DEIS. EPA would like to compliment both the USACE and the SFWMD staff for their efforts in developing the DEIS under an expedited time schedule.

Overall, the EPA supports the recommendations in the DEIS and the preferred alternative. The EPA strongly supports the expedited permitting and construction of the A1 FEB. The project will play an important role in improving water quality conditions in the Everglades and contribute to accomplishing the world's largest ecosystem restoration effort, an effort that our mutual agencies are working hard to achieve. We have minor comments regarding wetlands mitigation, tribal consultation and environmental justice. These are discussed in the Detailed Comments attachment.

We rate this document LO (Lack of Objections with the proposed action). Attached is a summary of definitions for EPA ratings. We appreciate the opportunity to review the proposed action. Please contact Jamie Higgins at (404) 562-9681 if you want to discuss our comments.

Sincerely,



Heinz J. Mueller, Chief  
NEPA Program Office  
Office of Environmental Accountability

Attachments



## **A1 FEB DEIS EPA Detailed Comments**

### **Wetlands:**

1. As noted in the EPA letter (reference *South Florida Water Management District; Permit Appl. No. SAJ-2005-0053*, dated April 4, 2013), EPA recommends the UMAM risk factor for the following four Assessment Areas: Prior Existing Exotic Dominated Wetlands (203 acres); Exotic Dominated Wetlands (10,504 acres); Canal and Ditches (113 acres) and Upland Roads and Berms (1,215 acres), be increased (higher risk) respectively to 1.5, 1.5, 1.75 and 1.75. See referenced letter for specific details.

### **Impacted Species:**

2. On page 4-79, 4.8.1.2.2 STA 2 and STA 3/4, the DEIS discusses impacts to nesting birds, but makes no mention the species of nesting birds. EPA recommends the Corps either mention the species of impacted nesting birds or reference it if previously mentioned in the DEIS.

### **Environmental Justice/Tribal:**

3. On page 4-99, 4.17 Environmental Justice, the DEIS discusses Environmental Justice (EJ) communities, but does not clearly identify EJ communities. Has the Corps identified EJ communities? If so, where are they located in relationship to the project? The Corps discusses positive impacts to the EJ communities, but does not describe the location of these communities or their demographic make-up. EPA recommends that the Corps consider identifying EJ communities, better describe these EJ communities and pictorially illustrate any EJ communities located near the project.

4. The DEIS includes a copy of the invitation to consult with the Seminole Tribe, as well as discussion of the Seminole Tribe's request to be a cooperating agency. There is no documentation of consultation with the Miccosukee Tribe, although the methodology section does include a statement of consultation with both Tribes, and incorporates specific instructions given by the Miccosukee Tribe. It is not clear whether the Corp has actively engaged both Tribes in meaningful consultation. EPA encourages consultation with the Seminole Tribe and the Miccosukee Tribe at all levels of decision-making. The EPA works closely with both Tribes on Everglades matters and is committed to working with other federal partners to prioritize the Tribes' water quality and water management concerns.

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA**

EPA has developed a set of criteria for rating Draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft.

**RATING THE ENVIRONMENTAL IMPACT OF THE ACTION**

- § LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- § EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- § EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:
  - 1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
  - 2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
  - 3. Where there is a violation of an EPA policy declaration;
  - 4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
  - 5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.
- § EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
  - 1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
  - 2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
  - 3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.

**RATING THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT (EIS)**

- § 1 (Adequate): The Draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
- § 2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the Draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the Final EIS.
- § 3 (Inadequate): The Draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the Draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the Draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised Draft EIS.